

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 13-0053

In re:

RANDALL JONES,

Respondent.

**DECISION WITHOUT HEARING BY ENTRY
OF DEFAULT AGAINST RESPONDENT**

I. Preliminary Statement

The instant matter involves allegations by the Administrator, Animal and Plant Health Inspection Service (“APHIS”) of the United States Department of Agriculture (“USDA”; “Complainant”) that Randall Jones (“Respondent”) violated provisions of the Horse Protection Act, as amended, 15 U.S.C. §1821 *a et seq.* (“the Act; “HPA”).

II. ISSUES

1. Whether default should be entered in this matter;
2. Whether a hearing is necessary in this matter;
3. Whether Respondent willfully violated the Act;
4. Whether the sanctions recommended by Complainant should be imposed.

III. Procedural History

On October 23, 2012, Complainant filed a complaint with the Hearing Clerk, Office of Administrative Law Judges (“OALJ”; “Hearing Clerk”). On October 25, 2012, the Hearing Clerk served the complaint on Respondent by certified mail, and informed Respondent that an Answer should be filed pursuant to the Rules of Practice Governing Formal Adjudications before the Secretary of USDA (“the Rules”). Respondent failed to file an Answer.

The case was assigned to me, and by Order issued March 7, 2014, I directed Respondent to show cause why a Decision and Order upon entry of default should not be entered.

Respondent failed to respond to my Order. On March 10, 2014, counsel for Complainant entered an appearance and moved for the entry of default judgment. The motion was served upon Respondent, who filed correspondence with the Hearing Clerk on March 27, 2014.

IV. Discussion

The Rules require the filing of an answer within twenty (20) days of the service of the complaint. 7 C.F.R. § 1.136. Pursuant to 7 C.F.R. § 1.136 (c), in the absence of an Answer that specifically addresses the allegations of the complaint, Respondent is deemed to have admitted the allegations set forth in the complaint. The failure to file an answer constitutes a waiver of hearing, and in the absence of meritorious objections to a proposed decision, entry of Default is appropriate, pursuant to 7 C.F.R. §1.139.

Respondent did not file an answer to the complaint that was served upon him at the address that Respondent provided in his correspondence of March 27, 2014. Respondent did not file a response to my Order, which was served upon him at the address that Respondent provided in his correspondence of March 27, 2014. The correspondence that Respondent filed in response to Complainant's motion did not address the substantive grounds of Complainant's motion, which included proposed findings of fact adopting the allegations of the complaint.

Respondent's correspondence stated in the entirety as follows:

I have not received any info concerning this issue and have no knowledge of any deliveries to my address. Please forward any info concerning issue at hand and I will respond in a timely manner.

I reject Respondent's contention that he had "no knowledge of any deliveries to [his] address." He responded to the delivery of the motion at the address he provided. All of the Hearing Clerk's mailings were addressed to the address that Respondent provided, and no mail

was returned as “undeliverable”. Moreover, Respondent’s only correspondence failed to address in any way Complainant’s motion, which summarized the violations alleged in the complaint.

I find that Respondent has failed to file a timely answer, and has failed to raise meritorious objections to Complainant’s motion. Respondent has waived his right to a hearing, and the entry of default is appropriate. Complainant’s proposed sanctions are warranted.

V. Findings of Fact

1. Respondent Randall Jones is an individual with a mailing address in Pembroke, North Carolina.
2. The Hearing Clerk for the Office of Administrative Law Judges served Respondent with a complaint alleging violations of the Horse Protection Act, 15 U.S.C. §1821 a et seq. at the address acknowledged to be Respondent’s.
3. Respondent did not file an answer to the complaint.
4. The Hearing Clerk for the Office of Administrative Law Judges served Respondent with an Order to show cause why the matter should not be decided in favor of Complainant due to Respondent’s failure to file an answer at the address acknowledged to be Respondent’s.
5. Respondent did not file a response.
6. The Hearing Clerk for the Office of Administrative Law Judges served Respondent with Complainant’s motion for a Decision by reason of default at the address acknowledged to be Respondent’s.
7. Respondent filed correspondence that failed to address the motion or the allegations in the complaint.
8. None of the correspondence was returned as undelivered.

9. At all times material hereto, Respondent Randall Jones was the owner of a horse known as “Jammin The Blues”.
10. On or about May 29, 2010, Respondent entered the horse known as “Jammin The Blues”, entry number 336, class number 47, for the purpose of showing or exhibiting at the 40th Annual Spring Fun Show in Shelbyville, Tennessee.
11. Respondent entered the horse “Jammin The Blues” for show or exhibition while sore by virtue of being scarred.

VI. Conclusions of Law

1. The Secretary has jurisdiction over this matter.
2. On or about May 29, 2010, Respondent violated sections 5(2)(A) and (D) of the Act (15 U.S.C. §§ 1824(2)(A) and (D)), when he entered and allowed the entry of, for the purpose of showing or exhibiting, the horse known as "Jammin The Blues" entry number 336, class number 47, at the 40th Annual Spring Fun Show in Shellbyville, Tennessee, while the horse was sore by virtue of being scarred as defined in the prevailing regulations at 9 C.F.R. § 11.3.

ORDER

Respondent Randall Jones **is disqualified for four years** from showing, exhibiting, or entering any horse, directly or indirectly through any agent, employee, or other device, and from judging, managing or otherwise participating in any horse show, horse exhibition, or horse sale or auction. “Participating” means engaging in any activity beyond that of a spectator, and includes, without limitation, transporting or arranging for the transportation of horses to or from equine events; personally giving instructions to exhibitors; being present in the warm-up or inspection areas, or in any area where spectators are not allowed; and financing the participating of others in equine events.

Respondent Randall Jones is assessed a civil penalty of **\$4,400.00**.

This Order shall have the same effect as if entered after a full hearing.

Pursuant to the Rules, this Decision and Order shall become final and effective without further proceedings 35 days after the date of service upon Respondent, unless it is appealed to the Judicial Officer by a party to the proceeding within thirty (30) days after service, pursuant to the Rules, 7 C.F.R. §§1.139 and 1.145.

Copies of this Decision and Order shall be served upon the parties by the Hearing Clerk.

So ORDERED this 9th day of April, 2014 at Washington, D.C.

Janice K. Bullard
Administrative Law Judge